

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

March 27, 2000

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 7:00 p.m. on Sunday, March 26, 2000 with Chair William Gaines, Jr. presiding. The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, Richard Hoiekvam, George Klein, William Nuckolls and Kathleen Smith. Also present was Executive Director, Annette Harmon. The meeting was held at the office of the Board at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

Those present discussed the Executive Director's Conference Report and CPE Conference Report. Issues that were brought up at the conferences included: the Uniform CPA exam, proposed revised CPE standards by NASBA and the AICPA, Alternative Practice Structures, and issues related to NASBA.

The meeting was again called to order at 8:44 a.m. on Monday, March 27, 2000 with Chair William Gaines, Jr. presiding. The roll was called with the following members present on Monday, March 27, 2000: William Gaines, Nina Kavich, Dean Graf, Richard Hoiekvam, George Klein, William Nuckolls and Kathleen Smith. Also present were personnel members Annette Harmon and Gerald Batliner.

B. Approval of meeting agenda for March 27, 2000. Moved by Smith, seconded by Hoiekvam, to approve the agenda for the March 27, 2000 meeting as written. On roll call vote, all members present voted aye. Member Aldy was absent. Motion number 1 carried.

C. Approval of the minutes of the January 7, 2000 Board meeting. Moved by Smith, seconded by Nuckolls, to approve the minutes as written. On roll call vote, all members present voted aye. Member Aldy was absent. Motion number 2 carried.

Member Aldy was present at 8:47 a.m.

2. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Smith, seconded by Klein, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the February 29, 2000 Budget Status Report.

C. Approval of January and February 2000 disbursements. The Board reviewed and approved the January and February 2000 disbursements.

D. Office Management Report. The Board reviewed a report on permits and registrations issued as of March 1, 2000. Prior year's statistics were also reviewed for comparison.

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3. Public Comment Period

There were no members of the public present for comment at this time.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Aldy, that the Board go into closed session at 8:49 a.m. for litigation and personnel matters. On roll call vote, all members present voted aye. Motion number 4 carried.

Member Hoiekvam recused himself from the closed session and left the conference room during the closed meeting.

Return to Open Meeting. Moved by Smith, seconded by Klein, that the Board return to open session at 9:08 a.m. On roll call vote, all members present voted aye. Members Hoiekvam and Aldy were absent for the vote. Motion number 5 carried.

4. Update on Pending Personnel Matter

Kathleen Smith was elected to serve as Board liaison on this matter by the Board. Ms. Smith reported on a suit served on the Board by former employee, Mary R. Shoner, in Lancaster County Court. Ms. Harmon and Ms. Smith will be meeting with the Attorney General's office regarding a response next week. The matter should not be discussed outside the Board meeting, among Board members or with other people. If a Board member receives a call on the matter, it should be referred to the Executive Director.

5. Report of the Quality Enhancement Program (QEP) Chair

A. Exemption Requests for Review. Staff and the Committee Chair have reviewed the requests for exemption from submitting QEP reports for the 2000 review process. Exemption requests require a copy of the opinion letter, the acceptance letter and letter of comments (if any). A qualified or modified opinion or an incomplete exemption request does not count for exemption purposes. In these cases, practice units were denied the exemption and asked to submit copies of reports for review. Moved by Graf, seconded by Smith to accept the exemption requests meeting the criteria. On roll call vote, all members present voted aye. Motion number 6 carried.

B. Committee Appointments. It was recommended by the QEP Committee Chair, Dean Graf, to appoint Jean Mueller, Michael Wassinger, Lee Hathaway, Kevin Furey, Daniel T. Pleiss and Courtney Baille in addition to any current members wishing to serve on the QEP Committee for this

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year. Moved by Graf, seconded by Nuckolls, to appoint those recommended. On roll call vote, all members present voted aye. Motion number 7 carried.

C. Proposed Revised Time Frame for 2001 and Beyond. The current time frame of asking practice units to submit reports and requests for exemption was based on the UNL School of Accountancy conducting the first level of review during the spring semester in past years. Now, the first and second level reviews are being done within weeks of each other and not until May and June. A revised time frame was proposed to shorten the QEP process to enhance the educational value for practitioners, and to allow practice units to finish their peer review process and receive their acceptance letters. Moved by Graf, seconded by Smith, to adopt the proposed time frame for the review in 2001 and beyond as follows: 1) May 15-June 30: Submission of reports and exemption requests with 6/30 being the final deadline for acceptance; 2) July to August: The first and second level reviews are completed and the QEP Committee meets and makes recommendations to the Board; 3) September 1: Letters with rating results are sent to practice units with request for Type 3 and 4 reports to respond within 30 days; 4) October: QEP Committee reviews responses and answers back to practice units and makes any final recommendations for action to the Board at their next meeting. On roll call vote, all members present voted aye. Motion number 8 carried.

D. Policy Manual Changes. Several Members made suggestions for changes to some of the forms. A revised draft, including the time frame approved in agenda item 5-C will be done and given to the Board for next meeting.

6. Educational Advisory Committee Chair

A. Recommendation from Chair on Core Subjects. An update was given to the Board on items requiring the attention of personnel and the Committee in reviewing applications to sit for the May 2000 CPA examination. Moved by Kavich, seconded by Smith, that graduate independent/self study courses proposed to satisfy an accounting core subject matter requirement must essentially be equivalent to the requirements of the course for which it is being submitted. The student would be required to attend all class meetings, complete all assigned readings and course work, and to take all exams. Auditing of a course would not be sufficient. On roll call vote, all members present voted aye. Motion number 9 carried.

Moved by Kavich, seconded by Smith, that non-business courses proposed as substitutes for courses in the required subject matter areas of the Business Communication and Business Ethics area will require the applicant to provide documentation that the proposed course is 25% or more of the course content and grade. The course cannot cover more than two subject matter requirements. On roll call vote, all members present voted aye. Motion number 10 carried.

Moved by Kavich, seconded by Smith, that accounting courses, regardless of the level at which taken (upper level undergraduate or graduate level), should be evaluated to determine if they are in fact

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equivalent to an accounting principles course and therefore would not be acceptable in satisfaction of the 30 semester credit hour requirement. On roll call vote, all members present voted aye. Motion number 11 carried.

B. Report on Applicants under 60/90 Day provision. This provision of the law allows a candidate to sit for the examination if he/she will complete the educational requirements within 60 days of the date the exam is given, and to provide the evidence of completion within 90 days of the date the exam is given. A brief report on applicants for the exam utilizing the 60/90 day provision of the law was given. No action necessary.

C. Report on Applicants Accepted and Denied under 150-Hour Requirement. A brief status report on applications received thus far was given. Moved by Smith, seconded by Kavich, that the Board reject the applicants as listed unless further correspondence supplied by the applicant would allow the EAC Chair, personnel, and Kathy Smith as a member of the Exam and Licensing Committee to accept it for sitting. On roll call vote, all members present voted aye. Motion number 12 carried.

7. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Hoiekvam, with the Committee's recommendation, to approve the recommendations of administrative personnel for all the listings of programs evaluated and approved/disapproved by personnel. On roll call vote, all members present voted aye. Motion number 13 carried.

B. Reconsideration of Program Denials. Moved by Hoiekvam, with the Committee's recommendation, to accept Course #99-227 for six hours and to ask for additional information on Courses #99-639 to 99-642. On roll call vote, all members present voted aye. Member Graf abstained. Motion number 14 carried.

C. Revision of Form Letters. The Board reviewed several form letters and discussed possible changes.

D. Report on Deficiencies for 2000-2002. The Board reviewed a list of people that were deficient in hours for the July 1, 2000 permit renewal period and noted that they would follow the flow chart process for clearing the deficiency or for not being allowed to renew their permit.

E. Policy Manual Changes. Moved by Hoiekvam, with Committee's recommendation, to postpone the approval of policy changes until the next regularly scheduled Board meeting. On roll call vote, all members present voted aye. Motion number 15 carried.

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8. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Aldy, with Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye. Motion number 16 carried.

B. Ratification/Approval of Advisory Grades for November 1999 CPA Exam. Moved by Aldy, with Committee's recommendation, to approve the advisory grades issued by the AICPA for the November 1999 CPA Examination. On roll call vote, all members present voted aye. Motion number 17 carried.

C. Application(s) for Reinstatement to Active Permit. Moved by Aldy, with the Committee's recommendation, to approve the applications for Reinstatement to Active Permit. On roll call vote, all members present voted aye. Motion number 18 carried.

D. Revision of Applications and Forms. In January the Board approved checklists for use in establishing a new firm entity and its proper licensure under the Public Accountancy Act. The Executive Director was directed to have the Assistant Attorney General review the checklists for accuracy and completeness. Ms. Melson reviewed the checklists, gave a few suggestions, and recommended the applications follow the checklists in their formation. Moved by Aldy, with the Committee's recommendation, to approve the use of the applications and forms developed from the initial firm set-up checklists and last year's renewal forms. On roll call vote, all members present voted aye. Motion number 19 carried.

E. Policy Manual Changes. Moved by Aldy, with the Committee's recommendation, to postpone the approval of policy changes until a future Board meeting. On roll call vote, all members present voted aye. Motion number 20 carried.

10. Report of Legislation and Rules Committee

A. Report on NSCPA Legislative Task Force. It was reported that the Task Force has not met since December 13, 1999, but that the Nebraska Society of CPA's has reported to the Executive Director that they are formulating some definitions regarding public accountancy.

B. Review of Disclosure Form for Commissions, Contingent & Referral Fees. The disclosure form found in Title 288, Chapter 5 ("Attachment 1") for commissions, contingent and referral fees was developed on the basis of the rules the Board promulgated and, after two public rules hearings, adopted in 1999. It is the opinion of the Assistant Attorney General that the wording found in the rule and in the Attachment preclude a licensee from using any other form than the one found in Chapter 5 of the rules. Moved by Aldy that this Board not act on requiring this written disclosure

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form until such time as the rule could be changed. Motion was withdrawn. No further motions were made.

C. Legislative Bill Watch. A list of legislative bills from this session, 1999-2000, that are of interest to the Board were reviewed.

The Board recessed for lunch at 12:02 p.m.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Kavich, to go into closed session at 12:44 p.m. for enforcement purposes. On roll call vote, all members present voted aye. Motion number 21 carried.

Return to Open Meeting. Moved by Smith, seconded by Hoiekvam, to return to open session at 1:56 p.m. On roll call vote, all members present voted aye. Motion number 22 carried.

9. Report of Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda. Moved by Smith to remove items #2-4 and approve. **A. Complaint Consent Agenda.** Moved by Smith, with the Committee's recommendation, to remove items #2-4 from the Consent Agenda and to approve the remaining items on the agenda. On roll call vote, all members present voted aye. Motion number 23 carried.

1. Complaint Status Log. The Board reviewed the Complaint Status Log, consisting of open and monitored complaints. No action necessary.

5. 99-18 Complaint alleges that a CPA firm was incompetent in the performance of and audit and refused to provide records. Motion to close the complaint.

6. 99-19 Corporate shareholders personally requested that corporate documents be provided to her accountant. Motion to close the complaint.

Moved by Smith, with the Committee's recommendation, to adopt a policy that when the case is dismissed, staff will write to all parties involved that we know litigation has been dismissed or that a case will be dismissed; and inform them that unless they contact us within 30 days upon receipt of our letter, that the Board will assume that the complaint/litigation has been resolved to their satisfaction. If no response is received from any of the parties involved after 30 days, staff will move the case to the next Board meeting agenda for closure. On roll call vote, all members present voted aye. Motion number 24 carried.

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B. Findings of Fact/Conclusions of Law for Gerard Forget: Complaint #99-07. Moved by Smith, with the Committee's recommendation, to postpone this item until the Board's next regularly scheduled meeting. On roll call vote, all members present voted aye. Motion number 25 carried.

C. Complaint #00-01 – Incompetent & negligent preparation of Subchapter S tax return. Moved by Smith, seconded by Klein, to postpone this agenda item until the Board's next regularly scheduled meeting. On roll call vote, all members present voted aye except Member Graf who voted nay. Motion number 26 carried.

D. Complaint #00-02 – Use of CPA designation without passing Exam. Roger B. Leach sat for the CPA examination one time in Nebraska but told his employer via his resume and verbally that he was a CPA, and that he had passed the examination. A letter of inquiry has been sent to Mr. Leach's employer with the hopes that they will forward it to him. Personnel will attempt to locate an address for him as well.

E. Request for Agency Declaratory Order on Board Consent Order.

Moved by Smith, with the Committee's recommendation, that the Board decline to issue a declaratory order on the basis of Title 288, Chapter 12, Section 009.01C: "The petition requests a declaratory order on the effect of past conduct." Section 003.03B clearly states that a declaratory order may be requested to obtain a determination of proposed conduct, not to obtain a determination of the effect of conduct that has already occurred. Mr. Kathol has indicated that the firm of Kathol and Pommer, LLC has already issued audits in the manner that was described in his petition. On roll call vote, all members present voted aye. Member Graf abstained. Motion number 27 carried.

Moved by Smith, with the Committee's recommendation, to file probable cause exists against the Respondent, Max Kathol, and to issue a complaint and notice of hearing for the next regularly scheduled Board meeting based on the charges of violating the following:

1. A Consent Order entered into with the Board dated March 6, 1999; specifically section 1: "The Respondent shall not perform audits in the future in any form of business practice;" and section 4: "Respondent Max Kathol may retain his Nebraska CPA certificate and the Respondents may retain their active permit to practice as long as each of them remain in compliance with all of the Nebraska Accountancy Laws and Rules and Regulations of the Board and as long as each of them comply with the terms of this Consent Order as set forth above."
2. Public Accountancy Act, Section 1-137(4) Violation of a rule of professional conduct adopted and promulgated by the board under the authority granted by the act; and Title 288, Chapter 10, Section 004.01 Work Space; advertising ; restrictions.

On roll call vote, all members present voted aye. Member Graf abstained. Motion number 28 carried.

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F. Policy Manual Changes. Moved by Smith, with the Committee's recommendation, to postpone the approval of policy changes until the next regularly scheduled Board meeting. On roll call vote, all members present voted aye. Motion number 29 carried.

11. New Business

A. Future Meeting Dates. The next regularly scheduled Board meeting is May 19, 2000 in Lincoln, July 17-18 in Grand Island, and August 25 and November 16-17 in Lincoln.

B. Report on Executive Director's Conference, Legal Counsel Conference and CPE Conference. The Executive Director gave details on these conferences Sunday evening.

C. Strategic Leadership Conference. "Strategic Leadership for State Executives" applies the fundamental concepts of management and the basic principles of leadership to the task of achieving major public purposes. It is sponsored by the Governors Center at Duke University at Durham, North Carolina and is designed for leaders in state governments, including agency heads. Moved by Smith, seconded by Kavich, to approve the cost of training for the Executive Director to attend the Strategic Leadership Conference this summer. On roll call vote, Members Graf, Kavich, Smith and Gaines voted aye. Members Aldy, Klein and Hoiekvam voted nay. Member Nuckolls abstained. Motion number 30 carried.

D. Miscellaneous Policy Manual Changes. Moved by Aldy, seconded by Graf, to postpone the approval of policy changes until the next regularly scheduled Board meeting. On roll call vote, all members present voted aye. Motion number 31 carried.

E. NASBA. 1. Focus Questions. Members gave answers to the focus questions presented and the Executive Director will communicate them to the Regional Director.

E. NASBA. 2. Approval of Attendance at NASBA meetings. This year's Regional meetings will be held in Rancho Mirage, California (Western Region) and Naples, Florida (Eastern). The Board discussed the estimated expenses for traveling to the Regional meetings in June 2000, including: registering early for the conference to avoid a higher late registration fee, making hotel and airfare reservations early to get better rate/fare, and that most meals would be paid with the registration fee. Moved by Smith, seconded by Kavich, to approve Board members' and the Executive Director's attendance at the Regional Meeting of his/her choice with the effort of minimizing expenses after the Board pays for Wednesday, Thursday and Friday nights; and to pay for Bill Nuckolls' expenses to stay Tuesday night in order that he might attend the New Board Member Orientation. On roll call vote, all members present voted aye. Motion number 32 carried.

Moved by Aldy, seconded by Klein, to approve the attendance of Member Hoiekvam at the NASBA Ethics Conference on April 28, 2000, and the expenses as outlined for the Board: the registration fee

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of \$450, coach airfare, personal vehicle mileage if any, hotel room for 2 nights (\$153.90 per night), actual meal expenses (IRS daily per diem of \$42), shuttle/taxi/tips expenses of \$24, and airport parking for 3 days (\$24). On roll call vote, Members Aldy, Klein, Hoiekvam and Graf voted aye. Members Gaines, Kavich and Smith voted nay. Member Nuckolls abstained. Motion number 33 carried.

E. NASBA. 3. CPE Standards Exposure Period. It was noted again that the proposed revised CPE Standards have been released for comment through August 2000 and all state Boards of Accountancy are encouraged to give comments during that time.

E. NASBA. 4. NASBA Committee Report: APS Task Force/UAA Committee. Member Hoiekvam gave an update on the work of the Alternative Practice Structure Task Force, including a draft of the revised discussion paper. He stated that the final version of the discussion paper should be available shortly and will be presented to the NASBA Board of Directors at their next meeting, whenever that might be.

12. Adjournment

It was moved by Smith, seconded by Aldy, that the Board adjourn at 3:45 p.m. On roll call vote, all members present voted aye. Motion number 34 carried.

Submitted by,

Nina B. Kavich, CPA
Secretary